REMARKS

In the Notice of Non-Responsive Amendment ("Notice") dated December 24, 2008, the Examiner alleges that "[t]he reply filed on October 2, 2008 is not fully responsive to the prior Office Action because . . . applicant's discussion of how the present claims distinguish over the prior art is inadequate." (Notice at 2.) Applicant respectfully disagrees with this position, but in order to advance prosecution in this matter, Applicant submits amended claims and remarks in response.

The Examiner asserts that the Reply to Office Action ("Reply") did not adequately address the 35 U.S.C. § 112 rejections. (Notice at 4.)

Applicant submits additional remarks and traverses the 35 U.S.C. § 112, second paragraph rejection of claims 1-24. Applicant has amended claims 1-24 to either correct or render moot each informality cited by the Examiner. In the Reply, Applicant removed all reference numerals in claims 1-24, responding to the alleged inconsistencies and vagueness of the claims. In claim 1, Applicant added elements that cause circulation and specifically defined "the heated or cooled air." Amended Claims 2, 3, 15-18, and 23 recite specific structural elements that define what is claimed. Claims 3, 6, 7, 11, 12, and 21 no longer contain the language cited as indefinite by the examiner. Applicant submits that claim 5 is clear as amended. Amended Claim 5 recites that the second circulating circuit comprises "a first sub-circuit" and "a second sub-circuit." Finally, claim 13 no longer is a multiple dependent claim. For at least these reasons, Applicant submits that claims 1-24 are definite and patentable under § 112, second paragraph.

Applicant repeats its remarks and traverses the § 112, first paragraph rejection of claims 1-24. Applicant has amended claim 1 to include the features recommended by the Examiner related to an air conditioning system, rendering moot the rejection.

The Examiner asserts that the Reply did not adequately respond to the rejections of claims 1-3 under § 102(b) and § 103(a) over Karl, U.S. 2001/0020529. Applicant submits the following additional remarks and traverses these rejections. As submitted in the Reply, at 2, Applicant amended claim 1 to include a first heat storing device as recited in claim 5. Karl neither discloses nor suggests, in combination, at least this first heat storing device having a storing material which is heated or cooled by a first heating medium, executing heat exchange among the first heating medium, a second heating medium, and the heat storing material, as recited in claim 1. Instead, Karl discloses two heat exchangers 17 and 21, but no heat storing device having a storing material. Lacking a disclosure or suggestion of at least this element of claim 1, Karl neither anticipates nor suggests claim 1 under § 102(b) or § 103(a), respectively.

The Office Action and Notice contain a number of statements characterizing claims 2 and 3 with regard to Karl. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action. Particularly, the Examiner appears to assert that Karl inherently discloses a controller executing a switching operation of a selector on the basis of an air conditioning demand, as recited in claim 2. Applicant declines to subscribe to the Examiner's statement, asserting that Karl lacks the features of claim 1 discussed above. Thus, Karl neither anticipates nor suggests claims 2 and 3 under § 102(b) or § 103(a), respectively, for claims 2 and 3 depend from claim 1. Applicant

asserts claims 2 and 3 are patentable over Karl, for at least the same reason as stated above with respect to claim 1.

Applicant submits new remarks and traverses the rejection of claim 4 under § 103(a) over Karl and further in view of Likitcheva, U.S. Patent No. 5,511,384. Likitcheva does not cure the deficiencies in Karl, particularly with respect to the first heat storing device having a storing material which is heated or cooled by a first heating medium, executing heat exchange among the first heating medium, a second heating medium, and the heat storing material, as recited in claim 1, because Likitcheva does not disclose at least this feature of claim 1. Instead, Likitcheva discloses a condenser, which the Examiner asserts is a heat exchanger, and a heat accumulator. Neither the condenser nor the heat accumulator of Likitcheva, however, contain a storing material as recited in claim 1. Therefore, the combination of Karl and Likitcheva does not create a *prima facie* case of obviousness of claim 4. § M.P.E.P. 2143.

The Examiner asserts that the Reply did not adequately respond to the rejections of claims 1, 5, 6, and 11 under § 102(b) and § 103(a) over JP 8-49934. Applicant submits the following additional remarks and traverses these rejections. STR in Figure 1 of JP 8-49934 is not a heat storing device having a storing material which is heated or cooled by a first heating medium, executing heat exchange among the first heating medium, a second heating medium, and the heat storing material, as recited in claim 1. JP 8-49934 fails to disclose or suggest a storing material being heated or cooled by a first heating medium, as recited in claim 1. Because JP 8-49934 fails to disclose or suggest, in combination, at least this feature of claim 1, and further fails to disclose or suggest, in combination, structure including both a heat exchanger and a heat storing

device, as recited in claim 1, JP 8-49934 neither anticipates nor suggests claim 1 under § 102(b) or § 103(a), respectively. Claims 5, 6, and 11 directly or indirectly depend from claim 1. Thus, claims 5, 6, and 11 are also patentable over JP 8-49934 for at least the same reasons set forth above.

In the Notice, the Examiner questions Applicant's response to the rejections of claims 5-6 and 11 over Karl and the rejections of claims 2-4 over JP 8-49934. Applicant notes that the Examiner did not make these specific rejections in the July 7, 2008 Office Action. Nonetheless, Applicant asserts that claims 5-6 and 11 are patentable over Karl, for at least the same reasons set forth above, because these claims depend from claim 1. Claims 2-4 are patentable over JP 8-49934, for at least the same reasons set forth above, because these claims also depend from claim 1.

Applicant repeats its final remarks and appreciates the indication of provisionally allowable subject matter in claims 7-10 and 12-24. In the Reply, Applicant amended these claims to correct the 35 U.S.C. § 112 rejections.

In view of the above amendments and remarks, Applicant respectfully requests reconsideration and allowance of claims 1-24.

If there is any fee due in connection with the filing of this Amendment, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

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